REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 47, 50, 51, 55, and 58 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 24-30, 32-35, and 47-59 are now pending in this application.

I. **Claim Rejections – 35 U.S.C. § 101**

In the outstanding Office Action of April 14, 2010, claims 50, 55, 58, and 59 of the present application were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In the Examiner's opinion, these claims are directed to non-statutory subject matter because the claims fail to distinguish between transitory computer-readable media (e.g., transitory signals) and non-transitory computer-readable media.

In response to the above rejection, Applicant has amended claims 50, 55, and 58 of the present application to more particularly recite a "non-transitory" computer-readable medium. In light of these amendments, Applicant submits that the rejection is moot, and respectfully requests withdrawal of the rejection.

II. **Claim Rejections – 35 U.S.C. § 103**

In the outstanding Office Action, claims 24-30, 32-35, and 47-59 were rejected as being unpatentable over U.S. Patent Publication No. 2001/0003828 (Peterson et al.) in view of U.S. Patent No. 6,661,784 (Nykanen). Applicant traverses the rejection for at least the reasons set forth below.

Various embodiments disclosed in the present application are directed to ensuring that a cellular phone has received the latest WAP content which could be relevant to a user. (See, e.g., page 4, lines 8-12 of the present application.) For example, a phone requests a copy of first content and a copy of link content simultaneously, and a gateway or proxy sends a copy of the first content and the copy of the link content simultaneously to the phone. Thus, if the user wants to receive further content which is linked to the first content, it is not necessary for the user to access the content before using the content in off-line browsing. In this way, the user is able to fetch the latest content from a server and use it when he/she is going off-line. (See, e.g., page 5, lines 21-31 of the present application.)

Furthermore, Applicant has amended claims 47 and 51 to more particularly describe the receipt of data packets according to the Wireless Application Protocol "from a cellular communication terminal." Support for the amendment can be found on, e.g., page 11, line 33-page 12, line 12 and Figure 4 of the present application. Additionally, Applicant has amended claims 47 and 51 to more particularly describe "sending the copy of the first content and the link content simultaneously to the cellular communication terminal." Support for the amendment can be found on, e.g., page 15, lines 23-33 of the present application. Applicant submits that independent claims 24, 32, , 53, 56, and 58 of the present application share at least these substantially similar features with independent claims 47 and 51.

Regarding Peterson et al., Applicant submits that Peterson et al. does not describe receiving data packets from a cellular communication terminal and, within the data packets, receiving a request comprising information of at least one access point indicating a location of the server to be accessed.

Peterson et al. merely describes the following:

> [0064] An aspect of this invention concerns a client-based
> system, implemented at each of the clients 24(1)-24(N), which
> improves gathering and organizing of the Web content 28. For
> purposes of continuing discussion, the client-based system is
> described in the context of being incorporated into a Web
> browser, such as the Internet Explorer browser available from
> Microsoft Corporation. FIG. 2 shows a Web browser 90
> implemented as a separate application 62 or integrated into an

operating system 60. However, it is noted that aspects of this invention can be implemented apart from a Web browser.

[0065] FIG. 3 shows the Web browser 90 in more detail. It includes a scheduling subsystem 92 to schedule a time to gather the Web content from one or more servers. It also includes a delivery subsystem 94, which is responsive to the scheduling subsystem 92, to obtain the Web content at the scheduled time.

Thus, it is clear that Peterson et al. does not describe receiving a request, let alone a request comprising information of at least one access point indicating a location of the server to be accessed, from another device, let alone a cellular communication terminal.

Peterson et al. also describes, in a different embodiment, the following:

[0112] The client-based system described above is also well suited for use in a webcast system. FIG. 8 shows a webcast system 150 for delivering Web content from a webcast center 152 over a broadcast medium 154 to multiple clients 156(1)-156(M). The webcast center 152 gathers Web content from the World Wide Web by visiting web sites 158(1)-158(N) via the Internet 160 and fetching content from those sites. The webcast center 152 collects Web pages from the Internet's World Wide Web 160 and stores them in a page cache 162. A system administrator sets a schedule that establishes which sites are visited by the webcast center 152, the time and frequency of the visits, and the type of content collected.

[0113] Apart from the gathering process, the webcast center 152 retrieves the pages from the page cache 162, bundles them into composite package files, and stores them in a package store 164. The package store 164 is preferably a separate database than the page cache 162. The webcast center 152 fetches the package files from the package store 64, segments the package files into individual packages (or packets), and transmits the packages over the broadcast medium 154.

[0114] The broadcast medium 154 is a unidirectional network in which packages are delivered from the webcast center 152 to the clients 156(1)-156(M) without requiring return communication from the clients. The broadcast medium 154 can be characterized as a shared, highly asymmetrical, network resource with a limited, if not completely absent, low speed return path that does not need to be active to receive broadcast transmissions. The broadcast medium 154 may comprise the

entire distribution network between the webcast center and clients, or it may be a single link in a larger distribution network.

From the above, it is clear that the clients do not send any request. Moreover, it is clear from Figure 8, that none of clients are cellular communication terminals.

Additionally, Peterson et al. does not describe sending the copy of the first content and the link content from the server simultaneously to the cellular communication terminal.

Peterson et al. merely describes:

> [0075] The delivery subsystem 94 provides the means for obtaining the index and Web content. The delivery subsystem 94 supports one or more different mechanisms to retrieve the information. In the illustrated implementation, the delivery subsystem 94 includes a Web fetching program 110, a broadcast packet rebuilder 112, and a multicast listener 114.

> [0076] The Web fetching program 110 enables the basic functionality of going out on the Web and getting the desired content. The Web fetching program 110 uses URLs to locate the index and Web content, and downloads the found information.

Thus and to the above, Peterson et al. only describes a Web fetching program getting desired content. There is no detail as to how this done, nor in particular, whether content and linked content is fetched simultaneously. Moreover, it is clear that the client of Peterson et al. merely downloads and stores content. It does not send it on to a cellular communication terminal.

Peterson et al. also describes, in a different embodiment, the following:

> [0113] ... The package store 164 is preferably a separate database than the page cache 162. The webcast center 152 fetches the package files from the package store 64, segments the package files into individual packages (or packets), and transmits the packages over the broadcast medium 154.

That is, Peterson et al. is concerned with facilitating distribution of Web content over the Internet, and describes a client-based system that improves gathering and organizing of

Web content in a manner that mitigates impact on overburdened servers and slow networks. (*See, e.g.,* paragraphs [0021]-[0022] of Peterson et al.) Client-based systems enable personalized filtering to collect only that content which the individual users prefers, while rejecting unwanted content. Peterson et al. achieves this using a client-based system which has a scheduling subsystem to schedule a time to obtain the Web content from a server. (*See, e.g.,* paragraph [0023] of Peterson et al.) In particular, such a system takes advantage of the fact that Web servers provide both Web content and an index of Web content., and delivers data in two stages, namely delivery of the index (which is used to identify content) and, then delivery of the Web content. (*See, e.g.,* paragraphs [0044] and [0045] and Figures 1 and 3 of Peterson et al.)

Although Peterson et al. describes offline browsing, and for example, discloses that a user can continue to search and find Web content using locally cached data, as described at, e.g., paragraph [0108], it is clear that Peterson et al. does not intentionally select linked content for caching. Instead, content is selected for caching based on filters. (*See, e.g.,* paragraph [0045] of Peterson et al.)

Thus, although it is possible that a Web page may have an internal hypertext link to other pages in the cache, it is more likely that a Web page may have links to other pages which are not in the cache. Notwithstanding this, even if a Web page has a link to other pages in the cache, it does not mean that the pages were fetched simultaneously since content is obtained by filtering and based on a schedule.

Additionally still, Peterson et al. describes, in a client-based system, gathering and organizing Web content on a client without using a proxy or gateway. Moreover, Peterson et al. describes, (in a webcast center implementation), that the webcast center gathers content (again according to filters and to a schedule), and then uni-directionally broadcasts content to clients. (*See, e.g.,* paragraphs [0111]-[0114] of Peterson et al.) Thus, in this case, the client does not request content which is then fetched. Lastly, regardless of whether a client-based system or a webcast center gathers content, it is clear that the system requires significant processing, storage and bandwidth resources. These features are not shared with a cellular phone.

Regarding Nykanen, Applicant submits that this references does not constitute prior art to the present application. 35 U.S.C. §103(c) states:

> Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the outstanding Office Action, all of the Examiner's rejections relied upon Peterson et al. as the primary reference and Nykanen as the secondary reference, taking the position that all of the features in the independent and dependent claims could be found in the combination thereof. As Nykanen was not published until after the filing date of the present application, Nykanen only qualifies as prior art under 35 U.S.C. § 102(e). However, in 1999 Nykanen was assigned by the inventor to Nokia Mobile Phones Limited of Espoo, Finland. Assignments recording this ownership with the U.S. Patent and Trademark Office are recorded on Reel 009809, Frame 0272. A copy of this assignment is attached hereto as Exhibit A. In 2001, Nokia Mobile Phones Limited merged with Nokia Oyj (Nokia Corporation), the current applicant of the present application. A copy of the record of this merger is attached hereto as Exhibit B. Lastly, in 2002, the present application was assigned by the inventor to Nokia Corporation. The assignment recording this ownership with the U.S. Patent and Trademark Office is recorded on Reel 013092, Frame 0102. A copy of this assignment is attached hereto as Exhibit C. This cumulative evidence clearly demonstrates that both the present application and Nykanen were assigned to, or were subject to an obligation of assignment, to the same entity at the time the claimed invention was made. Nykanen clearly meets the requirements of 35 U.S.C. §103(c), eliminating it as prior art.

Moreover, and even if Nykanen were prior art, a person of ordinary skill in the art would not consider modifying Peterson et al. so that a webcast center receives data packets according to the Wireless Application Protocol from a cellular communication terminal and, within the data packets, receiving a request comprising information of at least one access point indicating a location of the server to be accessed and an instruction to send a copy of a

first content from a location in the server together with a copy of link content simultaneously, and sending a copy of the first content and the link content from the server simultaneously to the cellular communication terminal.

First and as discussed above, Peterson et al. is generally directed to facilitating distribution of Web content over the Internet, and in particular, with a client-based system that improves gathering and organizing of Web content in a manner that mitigates impact on overburdened servers and slow networks.

In contrast, Nykanen is concerned with how to achieve a system that, by means of a local area network, makes connections to data processors (such as servers, clients of the servers, or both) possible for conducting data transmission. (See, e.g., paragraph [0014] of Nykanen.) Hence, Nykanen is directed to defining a system for communication between a WAP server and a WAP client complying with the WAP application protocol in the area of a piconet utilizing IR or SPRF services, and utilizing this piconet.

In light of the above, one of ordinary skill in the art would ascertain that Nykanen is of no relevance to the type of system described in Peterson et al. For example, the volumes of data are wholly different, and furthermore, the type and scale of the networks are completely dissimilar. Additionally, one of ordinary skill in the art would foresee that data transmission via WAP is wholly unsuitable for transmitting high volumes of data and media-rich content taught by Peterson et al. In fact, Peterson et al. actually identifies low bandwidth to be a problem. (See, e.g., paragraph [0010] of Peterson et al.) Therefore, one of ordinary skill in the art would not be motivated to limit bandwidth in Peterson et al.

Moreover, the Examiner asserted that it would be obvious to replace the wireless application request queries included with the wireless network protocol with WAP, the motivation allegedly being to detect when a WAP client has moved into the area of the piconet, whereby push data transmission can be started by the WAP server and reduced transmission cost. Applicant disagrees.

One of ordinary skill in the art, contrary to the Examiner's assertions, would not be motivated to modify Peterson et al. by replacing the web-centre by a WAP server and the clients by WAP clients, for a number of reasons:

First, Peterson et al. teaches that content is or need only be broadcast unidirectionally to clients. (See, e.g., paragraph [0113] and Figure 8 of Peterson et al.) Therefore, content will be broadcast regardless of whether clients are able to receive the content. Second, Peterson et al. teaches broadcasting over a significant area. One of ordinary skill in the art would unlikely want to limit the area of broadcast to the area covered by a piconet. Third, replacing the webcast centre with a WAP server would considerably limit the type and volume of content which could be delivered to clients. This clearly teaches away from the stated aim of Peterson et al., namely facilitating distribution of Web content.

Notwithstanding the above, and in arguendo, even if it were assumed (which it is not) that Peterson et al. could/was modified in view of Nykanen, the resulting system and method would still not arrive at the disclosed embodiments of the present application.

To the above, neither Peterson et al. nor Nykanen discloses receiving data packets and, within the data packets, receiving a request comprising information of at least one access point indicating a location of the server to be accessed and an instruction to send a copy of a first content from a location in the server together with a copy of link content simultaneously, and sending a copy of the first content and the link content from the server simultaneously to the cellular communication terminal.

In light of the above, Applicant submits that none of the cited prior art references, either alone or in combination teach all the required limitations recited in independent claims 24, 32, 47, 53, 56 and 58 of the present application, nor does Nykanen qualify as prior art. Additionally, and by virtue of their dependence upon one of independent claims 24, 32, 47, 51, 53, 56, and 58, Applicant submits that the cited prior art references also fail to teach each and every limitation recited in dependent claims 25-30, 33-35, 48-50, 52, 54, 55, 57, and 59 for at least the same reasons as already discussed above, in addition to the disqualification of Nykanen as prior art.

III. Conclusion

Because none of the references cited by the Examiner, either separately or in combination with each other, teach all of the required limitations recited in independent claims 24, 32, 47, 51, 53, 56, and 58, and/or due to the disqualification of Nykanen as prior art, Applicant submits that each of these independent claims are patentable over this art. Furthermore, because dependent claims 25-30, 33-35, 48-50, 52, 54, 55, 57, and 59 are each directly or indirectly dependent upon independent claims 24, 32, 47, 51, 53, 56, and 58, Applicant submits that each of these claims are allowable for at least the same reasons as discussed above.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 14, 2010   By   /Sanjeev K. Dhand/

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